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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/002,944	01/05/1998	THEODORE D. WUGOFSKI	450.208US1	8404

30408 7590 07/02/2002

GATEWAY, INC.
ATTENTION: IP LAW GROUP (MAIL STOP SD-21)
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EXAMINER

BUI, KIEU OANH T

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/002,944

Applicant(s)

WUGOFSKI ET AL.

Examiner

KIEU-OANH T BUI

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 20 May 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See the attachment.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-9, 11 and 13-20.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). Andrew Faile

10. ☐ Other: _____

ANDREW FAILE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on 05/07/02 have been fully considered but they are not persuasive.

Applicants basically argues: "The Office Action did not state a prima facie case for combining the references". In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references drawn to a same environment of providing electronic television program guide schedule systems to subscribers/users/viewers. Schoff goes one step beyond Knee's conventional electronic program guide in providing additional supplement information via accesses to the Internet or the World Wide Web. By using the term "conventional" in Knee's system, the Examiner would like to emphasize that whatever disclosed in Knee's, to any one of ordinary skill in the art, they are considered to be well known issues. Schoff clearly shows a menu (Fig. 8C) for the user to access the electronic program guide to either a regular TV program or an Internet related content program. Schoff does not clearly show the step of "providing management functions for adding or removing the TV channel or the Internet channel" because Schoff can not focus on everything on a same single invention; however, the technique of "providing management functions for adding or removing

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the TV channel or the Internet channel” is taught by Knee in a “conventional” electronic program guide system, where this technique had been known for years (at least long before 1995 --Knee’s filing date-- if those previous applications as CIPs do not account for herein). Thus, it becomes a “nature” that this technique of “providing management functions for adding or removing the TV channel or the Internet channel” must be included or known to be easy to incorporate into a similar or same electronic guide system as one of Schoff’s without a doubt in order to manipulate with the program guide menu of Schoff’s. Therefore, the Examiner believes to already establish a prima facie case for combining the references.

As for the second concern that “even if combined, the cited references fail to teach or suggest all of the elements of applicant’s claimed invention”, the Applicant supports the statement by only providing that “a scheduled internet channel” of Schoff (shown with elements 232-236) has “no associated time characteristic”. The Examiner would like to point out to the Applicant to Fig. 7/item 182 & column 12, lines 39-67 of Schoff as Schoff discloses that the supplement content which is accompany a particular show or movie requires “the timing requirements” for synchronizing the supplement content with the video stream. Therefore, at least it meets the claim language therein, it shows the an internet channel with its “associated time characteristic”. Therefore, the Examiner disagrees with the Applicant’s arguments and stands with the teachings of Schoff and Knee as disclosed previously in the Final Office Action.

Conclusion

2. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:00 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile, can be reached on (703) 305-4380.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Krista Bui
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June 28, 2002